

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

THE WATTLES COMPANY, a Washington
corporation,

Plaintiff,

vs.

SCOTTSDALE INSURANCE COMPANY, an
Arizona corporation, et al.,

Defendants.

No. 3:14-cv-05097-RBL

DECLARATION OF JAMES L. KELLY, JR.
IN SUPPORT OF WESTCHESTER
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT DISMISSAL OF CONTRACT-
BASED CLAIMS DUE TO WATTLES'
FAILURE TO FILE SUIT WITHIN ONE
YEAR SUIT LIMITATION PERIOD

I, James L. Kelly, Jr., declare as follows:

1. I am a Vice President for ACE North American Claims and have oversight responsibility for certain property insurance claims made to insurer entities that are part of the ACE Group USA group of companies, including Defendants Westchester Fire Insurance Company and Westchester Surplus Lines Insurance Company f/k/a Industrial Insurance Company of Hawaii, Ltd. (collectively "Westchester"), and make the following declaration based upon my personal knowledge.

DECLARATION OF JAMES L. KELLY JR., IN SUPPORT OF
WESTCHESTER DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT DISMISSAL OF CONTRACT-
BASED CLAIMS DUE TO WATTLES' FAILURE TO FILE
SUIT WITHIN ONE YEAR SUIT LIMITATION PERIOD
(Cause No. 3:14-cv-05097-RBL) - 1



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2. In the fall of 2013 I became responsible for coordinating Westchester's response to a Notice of Loss submitted to Westchester by The Wattles Company ("Wattles") in late September, 2013. The Wattles Notice of Loss included information identifying policies issued by Westchester in the 1980's and 1990's, the most recent of which represented to be over 19 years ago, for policy period 1994-1995.

3. To formulate a response to the Wattles' Notice of Loss I coordinated an attempt to determine whether ACE had any records showing Wattles was ever an insured of Westchester and, if so, to confirm the terms and conditions of any policy of insurance issued by Westchester to Wattles.

4. I specifically requested that the internal department tasked with identifying and locating potentially "lost policies" perform a complete search of all available sources to determine whether any whether any record still existed showing that Westchester had issued any policy of insurance to Wattles.

5. On February 4, 2014 Wattles filed suit against Westchester alleging coverage for property damage to Wattles warehouse located at 1901-2005 Fryer Avenue, Sumner, Washington. Wattles' lawsuit alleged coverage under the following Westchester policies ("Westchester Policies"):

- Industrial Ins. Co of Hawaii- 11/1/92-11/1/93 Policy No. JA912-4039
- Westchester Fire Ins. Co.- 11/1/93-11/1/94 Policy No. FPS 376793
- Westchester Fire Ins. Co.- 11/1/94-11/1/95 Policy No. JA9132294/ FPS 376793

6. Following an extensive internal search I was informed that no record could be found, now almost 20 years later, of any of the Westchester Policies that Wattles alleged

1 afforded coverage for the property damages alleged in the lawsuit Wattles filed on or about
2 February 4, 2014.

3 7. Pursuant to my instruction, on or about April 8, 2014 counsel for Westchester,
4 Scott M. Stickney issued a letter to Wattles' counsel advising of the results of our lost policy
5 investigation and acknowledging Westchester's agreement that the policy terms and
6 conditions contained in the copies of Westchester Policies her office had provided earlier
7 would be deemed controlling for purposes of the claims Wattles asserted.
8

9
10 I declare under penalty of perjury under the laws of the State of Washington that the
11 foregoing is true and correct.

12 SIGNED, in Wilmington, Delaware this 4th day of ~~July~~ ^{August}, 2014. *OK*

13
14
15
16 By 

*James L. Kelly, Jr., Vice President,
ACE North American Claims*



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date below I caused to be served the foregoing document on all counsel of record via the method indicated.

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SIGNED this 13th day of August, 2014, at Seattle, Washington.


Becky Phares